

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TIMOTHY STIVERS, individually and on	)	
behalf of all other similarly situated,	)	<b>ELECTRONICALLY FILED</b>
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 12-01534
	)	
OFFICE DEPOT, INC.,	)	Magistrate Judge Cynthia Reed Eddy
	)	
Defendant.	)	

**PLAINTIFF’S UNOPPOSED MOTION  
FOR PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT**

Plaintiff respectfully moves this Court for an Order:

1. Granting preliminary approval of the parties’ Joint Stipulation and Settlement Agreement (“Settlement Agreement”), a true and correct copy of which is attached as Exhibit 1 to this Motion;
2. For purposes of settling this lawsuit only, provisionally certifying the following Settlement Class pending final approval of the settlement: all individuals who are current or former employees of Defendant Office Depot, Inc. who worked as Assistant Store Managers in the Commonwealth of Pennsylvania at any time between October 23, 2008 and January 1, 2011;
3. Appointing Timothy Stivers as the Class Representative;
4. Appointing Berger & Montague, P.C., Klafter, Olsen & Lesser, LLP and Whitfield Bryson & Mason LLP as Class Counsel for the Settlement Class;
5. Approving the Class Notice and Settlement Certification Claim Form, true and correct copies of which are attached as Exhibit A to the Settlement Agreement; and
6. Approving the proposed schedule and procedure for completing the final approval process as set forth in the parties’ Settlement Agreement.

This Motion is based on the accompanying Memorandum of Law, the Declaration of Shanon J. Carson in Support of the Plaintiff's Unopposed Motion for Preliminary Approval, and all other records, pleadings and papers on file in this action. Pursuant to the terms of the Settlement Agreement, Defendant does not oppose this Motion.

A proposed Order is submitted for the Court's consideration.

Dated: May 1, 2013

Respectfully submitted,

s/ Sarah R. Schalman-Bergen  
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